

## **CHAPTER 20.40**

### **COMMERCIAL ZONING DISTRICTS**

#### **Part 1 General**

##### **20.40.010 Commercial Zoning Districts.**

- A. This Chapter sets forth the land use and development regulations applicable to the Commercial Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the CO, CP, CN and CG Commercial Districts except as set forth in this Chapter.
- C. The Commercial Zoning Districts are intended to support the commercial land use, economic development, and neighborhood preservation and conservation goals and policies of the General Plan through the use regulations and development standards. The four Commercial Districts reflect the diversity of the commercial needs and opportunities in the City. The purposes of the Commercial Districts are as follows:
  - 1. CO Commercial Office District. The CO Commercial Office District is a district in or near residential areas or between residential and commercial areas. This district is intended to be a low intensity office zone that allows for a scale of offices in or adjacent to residential neighborhoods. Larger scale office development can be permitted upon approval of the Planning Commission, or City Council on appeal, through the Conditional Use Permit process.
  - 2. CP Commercial Pedestrian. The CP Commercial Pedestrian District is a district intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the General Plan related to neighborhood business districts. The CP Commercial Pedestrian District also encourages mixed residential/commercial development where appropriate.
  - 3. CN Commercial Neighborhood. The CN Commercial Neighborhood District is a district intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. This district also differs from the CP Commercial Pedestrian District in that there is no limit on the size of the stores. The type of development

supported by this district includes neighborhood centers, multi-tenant commercial development along major arterials, and small corner commercial establishments.

4. **CG Commercial General.** The CG Commercial General District is a district intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls.

## Part 2 Use Regulations

- A. “Permitted” land uses are indicated by a “P” on Table 20-90.
- B. “Conditional” uses are indicated by a “C” on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. “Special” uses are indicated by a “S” on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. “Administrative” uses are indicated by a “A” on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- E. Land uses not Permitted are indicated by a “-” on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.
- F. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
General Retail					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales – beer and/or wine only	-	C	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	Section 20.80.900

<b>Table 20-90</b> <b>Commercial Districts</b> <b>Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Bakery, retail	-	P	P	P	
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
<b>Education and Training</b>					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	Note 2
Instructional art studios, with live models	-	C	C	C	Note 2
Private Instruction, personal enrichment	-	P	P	P	Note 3
School- elementary and secondary (Public)	P	P	P	P	
School- elementary and secondary (Private)	-	C	C	C	
School, driving (class C & M license)	-	P	P	P	Note 4
School, post secondary	-	P	P	P	Note 5
School, trade and vocational	-	C	C	C	
<b>Entertainment and Recreation Related</b>					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Entertainment	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, Commercial (indoor)	-	P	P	P	
Recreation, Commercial (outdoor)	-	C	C	C	
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
<b>Food Services</b>					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 6
Drinking establishments	-	C	C	C	
Public eating establishments	-	P	P	P	
Wineries, Breweries	-	C	C	C	
<b>Health and Veterinary Services</b>					
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/ in-patient facility	C	C	C	C	
Medical clinic/ out-patient facility	P	P	P	P	
Office, medical	P	P	P	P	
Veterinary clinic	-	P	P	P	Note 7
<b>General Services</b>					
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80

<b>Table 20-90</b> <b>Commercial Districts</b> <b>Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 8
Mortuary and funeral services	P	P	P	P	
Personal services	-	P	P	P	Section 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
<b>Offices and Financial Services</b>					
Automatic Teller Machine	P	P	P	P	Section 20.80.200
Business Support	-	P	P	P	
Financial Institution	P	P	P	P	
Office, general business	P	P	P	P	Section 20.40.110
<b>Public, Quasi-Public and Assembly Uses</b>					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
<b>Residential</b>					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/Work	-	S	S	S	Section 20.40.130
Mixed Use/Ground floor commercial with residential above	-	C	C	C	Note 9
Residential Care Facility for seven or more persons	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	
Single Room Occupancy Hotel	-	C	C	C	Part 15, Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
<b>Drive-Through Uses</b>					
Drive-through in conjunction with any use	-	-	C	C	
<b>Recycling Uses</b>					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
<b>Transportation and Utilities</b>					
Communications service exchange	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 10
Wireless communication antenna	C	C	C	C	Section 20.100.1300

<b>Table 20-90</b> <b>Commercial Districts</b> <b>Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
<b>Electrical Power Generation</b>					
Private Electrical Power Generation Facility	C	C	C	C	Note 16
Co-Generation Facility	S	S	S	S	
Stand-by/Backup					
Facilities that <b>do not</b> exceed noise or air standards	A	A	A	P	
Facilities that <b>do</b> exceed noise or air standards	C	C	C	C	
Temporary Stand-by/Backup	P	P	P	P	
Photovoltaic	P	P	P	P	Note 15
<b>Vehicle Related Uses</b>					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 11
Gas or charge station with incidental service and repair	-	C	C	P	Note 12, Note 18
Glass sales, installation and tinting	-	-	C	P	Note 18
Sale or lease, commercial vehicles	-	-	C	C	Note 18
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	Note 17, Note 18
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	C	Note 16
Sale, vehicle parts	-	C	P	P	Note 14
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 13, Note 18

### Notes Applicable to all Commercial Districts:

- (1) In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
- (2) Includes such areas as dance, music, martial arts and fine arts.
- (3) Includes such areas as driving, language, and academics.
- (4) No on site storage of vehicles permitted.
- (5) Includes public and private colleges and universities, as well as extension programs and business schools.
- (6) Not a catering facility.
- (7) Intentionally omitted.
- (8) No on site storage of vehicles permitted.
- (9) Make sure General Plan supports mixed use or residential.
- (10) Use must be less than twenty-four (24) hours.
- (11) No incidental repair or service permitted.

- (12) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
- (13) Non engine and exhaust related service and repair allowed as incidental.
- (14) No outdoor sales areas or dismantling allowed.
- (15) Photovoltaic (PV) systems may be processed through a Permit Adjustment.
- (16) No on-site storage of vehicles permitted.
- (17) In the CG District, incidental storage of vehicles, and incidental repair of vehicles in addition to what otherwise would be permitted, requires a Conditional Use Permit. Incidental storage and repair of vehicles is prohibited in all other commercial districts.
- (18) All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.

#### **20.40.110 Incidental Uses, Office**

Subject to the conditions, limitations and restrictions hereinafter set forth, space situate entirely within a building used for business, professional or administrative office purposes may be used for the operation of a restaurant, café or newsstand if:

- 1. The use of such space for a restaurant, café or newsstand is incidental and auxiliary to the primary and main use of the building for one or more of the above uses;
- 2. The gross floor area of such building is fifty thousand (50,000 square feet or more);
- 3. Two hundred fifty (250) or more persons are employed in such building;
- 4. The only public access to the restaurant, café, newsstand is by way of an interior lobby or court, and there is not direct access thereto from outside the building;
- 5. The total combined gross floor area of all restaurants, cafes, and newsstands in any one building shall not exceed one-tenth the total gross floor area of the entire building.

#### **20.40.120 Animal Uses**

All uses involving any type of care for animals, including but not limited to Grooming, Boarding, Medical Care must be conducted wholly inside a building.

#### **20.40.130 Live/Work Units.**

Any Special Use Permit issued for live-work uses shall be subject to the following criteria:

- A. Only owners or employees of the business associated with the live/work unit may occupy the living unit portion; and
- B. The live/work unit complies with the Uniform Building Code requirements.

## Part 3 Development Regulations

### 20.40.200 Development Standards.

All development in the Commercial Zoning Districts shall conform to the development regulations set forth below in Table 20-100.

<b>Table 20-100 Commercial Zoning Districts Development Standards</b>				
Regulations	Zoning District			
	CO	CP	CN	CG
Minimum Lot Area (square feet or acreage)	6,000	6,000	6,000	1 acre (none if lot is located in a shopping center with shared access and shared parking among the lots)
Minimum Setback (feet)				
Front	15	no minimum, 10 feet maximum	15	25
Side, Interior	5	none	none	none
Side, Corner	12.5	none	12.5	12.5
Rear, Interior	25	25	none	none
Rear, Corner	25	25	none	none
Maximum Height (feet)	35	50	50	65
Maximum Number of stories	3	4	4	8
Maximum Individual Occupant Square Footage (square feet) <sup>[see Note 1]</sup>		2,500/Personal service shop  5,000/Eating, drinking or entertainment establishment  15,000/all other uses <sup>[see Note 1]</sup>		
Parking	See Chapter 20.90			

#### Notes Applicable to Commercial Development Standards:

In the CP Commercial Pedestrian District, lots located wholly within the West San Carlos Street Neighborhood Business District, as indicated on the General Plan Land Use Diagram, shall not be subject to the maximum individual occupant square footage requirements set forth in this Section.

#### **20.40.210 Setback - Abutting Alley**

In computing the depth of a rear setback area for any building, where such rear setback area opens onto a public alley, one-half of such alley may be assumed to be a portion of the rear setback area.

#### **20.40.220 Maximum Individual Tenant Square Footage - CP District**

The maximum tenant square footage in the CP District may be exceeded only pursuant to and in conformance with an approved Conditional Use Permit as set forth in Chapter 20.100.

#### **20.40.230 Maximum Height - Exception, Number of Stories - Exception**

Notwithstanding, the provisions of Section 20.40.200, in any Commercial District, the Maximum Height and Maximum Number of Stories restrictions shall not apply to SRO Residential Hotels, SRO Living Unit Facilities and mixed commercial/residential projects.

#### **20.40.240 Lot Area - Exception**

Notwithstanding, the provisions of Section 20.40.200, in all the Commercial Districts, the minimum area of a lot, whose area as shown on a final subdivision map approved by the City, is less than the minimum required but not less than 5,000 square feet, shall be the area shown for such lot or parcel on such subdivision map.

#### **20.40.250 Front Setback - Exception, Streets with Residence Districts**

Notwithstanding, the provisions of Section 20.40.200 where lots situate on one side of a street between two intersecting streets are situate partly in a Commercial District and partly in a Residence District, the front setback requirements applicable to such Residence District shall apply to all lots in the Commercial District.

#### **20.40.260 Front Setback - Exception, CP District**

The Director may grant an exception to the maximum front setback for a lot in the CP Commercial District if he finds that the adjacent lot(s) have a greater setback and the allowance of a greater setback on the subject lot would promote a more consistent pattern of development, and/or the greater setback is needed to accommodate building design elements.

#### **20.40.270 Side Setback - Exceptions, Interior Lot.**

Notwithstanding, the provisions of Section 20.40.200, in the CP Commercial District, a building side setback shall be required for interior lots on that side of each such lot which abuts on the side of a lot situate in a Residence District, in which case the side setback requirements shall be a minimum of ten (10) feet.



**20.40.290 Rear Setback - Exception, Property Abutting a Commercial or Less Restrictive District**

Notwithstanding, the provisions of Sections 20.40.200, there shall be no rear setback for property situate in any Commercial District whenever the entire rear property line of such property abuts property situate in any Commercial District or less restrictive district.

**20.40.300 Exception - Maximum Number of Stories, Height, and Floor Area Ratio Exception.**

In the CO Commercial Office and CG Commercial General Districts, a Conditional Use Permit may be issued which authorizes a greater floor area, number of stories and/or height if such increases are not inconsistent with the general purposes of this Title, consistent with applicable General Plan policies, and would promote the public health, safety, or welfare.

**Part 4  
Setback Regulations**

**20.40.400 Setback Areas - Open, Unobstructed, and Unoccupied**

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all buildings or structures except as follows:

1. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any setback area;
2. Bay windows, on a foundation or cantilevered, or chimneys of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into any setback area, provided that such extensions maintain a minimum setback of three (3) feet;
3. Wells for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into the side and rear setback area, provided that such extensions maintain a minimum setback of three (3) feet;
4. Overhead wires necessary for electrical and telephone service to a building on the lot;

5. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the lot or of a building on the lot; and
6. Walks and driveways for vehicular or pedestrian access to the lot.

## **Part 5 General Regulations**

### **20.40.500 Late Night Use and Activity**

- A. No establishment other than office uses, in any Commercial District shall be open between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.
- B. No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within one-hundred fifty (150) feet of any residentially zoned property between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

### **20.40.510 Permanent Structure Required**

No use shall be deemed to be a Permitted use on a site in any Commercial District unless it is being conducted as part of a business which maintains on that site a permanent, fully enclosed building erected pursuant to a valid building Permit issued for that site, excepting only those uses specifically Permitted, under this Part or this Title, to operate without a permanent building on site.

### **20.40.520 Outdoor Uses within 150 Feet of Residentially Zoned Property**

No use, which in whole or in part, consists of, includes, or involves any outdoor activity or sale or storage of goods, products, merchandise or food outdoors shall occur on any lands or in any buildings if any part of such lands or any part of the lot on which such buildings are located is situate within one hundred fifty (150) feet of residentially zoned property except with a Conditional Use Permit as provided for in Chapter 20.100, except for the following:

1. Seasonal sales in accordance with the provisions in Part 4, Chapter 20.80.
2. Service windows for pedestrians or automatic teller machines for pedestrians both of which are associated with financial institutions.
3. Cigarettes, ice, candy, food, and soft drinks dispensed from self-service, coin-operated automatic vending machines.
4. Plant nursery sales.

#### **20.40.525 Residential Uses - Prohibition on Provision of Services to Nonresidents**

No residential use which includes the provision of service to residents may offer services to nonresidents.

#### **20.40.530 Lighting**

- A. All lighting or illumination shall conform with any lighting policy adopted by the City Council.
- B. Light fixture heights should not exceed eight (8) feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. No ground mounted light fixture shall exceed twenty-five (25) feet in height.
- C. Any lighting located adjacent to riparian areas shall be directed downward and away from riparian areas.

#### **20.40.540 Lighting Adjacent to Residential Properties**

Any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property situate adjacent to a site or lot used for residential purposes shall be arranged and shielded that all light will be reflected away from any residential use so that there will be no glare which will cause unreasonable annoyance to occupants of such property, or otherwise interfere with the public health, safety, or welfare.

#### **20.40.560 Screening Adjacent to Residentially Zoned Properties**

Any use conducted on any property shall be effectively screened at the property line from any abutting property in a Residential District. The screening required hereby shall be a masonry wall or a solid wooden fence five (5) feet in height, except that any portion thereof situate in the required setback area from abutting public streets shall be not more than four (4) feet; and in the event such use included any outdoor activity, such screening shall also include such trees or plants as the Director deems reasonable necessary to effectively screen such use from the adjoining Residential District. Such screening shall at all times be maintained in good condition and be kept free at all times of signs. In addition, where a use involving outdoor activity is on a lot or parcel adjoining a Residential District, such lot or parcel shall be landscaped in a manner approved by the Director.

## **Part 6**

### **Performance Standards**

#### **20.40.600 Performance Standards**

- A. In the CO, CP, CN, and CG Commercial Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
  2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
  3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding paragraph, the following specific standards shall apply in the Commercial Zoning Districts:

1. Air Pollution

Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

2. Noise

The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-105 at any property line, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

<b>Table 20-105</b>	
<b>Noise Standards</b>	
	<b>Maximum Noise Level in Decibels at Property Line</b>
Commercial use adjacent to a property used or zoned for residential purposes	55
Commercial use adjacent to a property used or zoned for commercial or other non-residential purposes	60

3. Vibration

There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.